

*Town of Weymouth
Massachusetts*

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MEMORANDUM

#24119

TO: TOWN COUNCIL
CC: TED LANGILL, CHIEF OF STAFF
ROBERT F. LUONGO, DIRECTOR OF PLANNING
RICHARD MCLEOD, TOWN SOLICITOR

FROM: ROBERT L. HEDLUND, MAYOR

SUBJECT: ACCESSORY DWELLING UNIT ORDINANCE AMENDMENT

DATE: DECEMBER 11, 2024

I submit the following measure for consideration by the Town Council:
"That the Town of Weymouth, through Town Council with the approval of the Mayor, hereby amends the Town of Weymouth Chapter 120 Zoning Ordinance in the following manner":

SECTION 1.

Section 120-6 Definitions. Add the following definitions:

SHORT-TERM RENTAL: Any rental of a Residential Dwelling Unit, or a bedroom within a Residential Dwelling, in exchange for payment, as residential accommodations for less than thirty-one (31) consecutive days including a Bed and Breakfast Establishment, Bed and Breakfast Home, Boarding House, Hotel, or Motel.

ACCESSORY DWELLING UNIT (ADU): "Accessory dwelling unit", is a self-contained housing unit, inclusive of sleeping, cooking, and sanitary facilities on the same lot as a principal dwelling and subject to otherwise applicable dimensional and parking requirements, that: (i) has no more than two (2) bedrooms, maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in gross floor area than 1/2

the gross floor area of the principal dwelling or 900 square feet, provided that the lot conforms to the current minimum lot size, whichever is smaller. ADUs proposed on a lot containing less than the current minimum are limited to 750 square feet: (iii) is for the exclusive use of a single-family maintaining a household.

GROSS FLOOR AREA, ACCESSORY DWELLING UNIT: Where an Accessory Dwelling Unit (ADU) is not located within the Principal One-Family Dwelling the entire Building, where the ADU is located shall be calculated in its entirety as the Gross Floor Area (The sum of the areas of all stories of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, including any floor area below grade when usable for residential, office, business, storage, industrial, or other purposes, but excluding any area used exclusively for heating, air conditioning or other mechanical equipment which services the building) of the ADU.

SECTION 2.

Section 120-6 Definitions. Add the following sentence after the existing definition of Lot Coverage and add a corresponding footnote to the R-1 column of the Schedule of District Regulations (Table 1).

Within the R-1 District, this calculation shall also include all other impervious surfaces including pavement, patios, sheds, and swimming pools.

SECTION 3.

Add Article XXIX Accessory Dwelling Unit, to read as follows:

Article XXIX Accessory Dwelling Unit

§ 120-134. Purpose and Intent

An Accessory Dwelling Unit (ADU) is an alternative type of housing that allows Weymouth to expand and diversify its housing supply options without requiring additional land development. The design and implementation of an ADU are expected to fit on a Lot, with the Principal One-Family Dwelling.

§ 120-135. Massachusetts General Law (MGL)

1. ADUs are permitted As of Right per MGL, Chapter (c) 40A, § 3 in any zoning district that allows single-family housing as-of-right or by Special Permit.
2. The Town has established Article XXIX of these Zoning Bylaws to provide guidance and to reasonably regulate the

construction of ADUs within single-family zoning districts and other districts allowing single-family homes as-of-right or by Special Permit.

3. Massachusetts General Laws (MGL), Chapter (c) 40A, § 3 does not supersede existing or future building codes, health Codes, conservation regulations, or Department of Public Works regulations. All ADU proposals must comply with all applicable State and Town codes and ordinances.
4. No ADU unit or Principal Single-Family Dwelling may be utilized as a Short-term Rental.

§ 120-136. Applicability

1. To qualify for an As of Right ADU, the principal one-family dwelling and the Lot shall:
 - (a) conform to the maximum Lot Coverage and all other dimensional requirements, excluding lot size, of the respective Zoning District, per the Schedule of District Regulations (Table 1) of these Zoning Bylaws; and
 - (b) be the only residential dwelling unit on the Lot before the construction of the ADU.
 - (c) An ADU may be proposed in conjunction with a single-family home proposal.
2. The ADU and the one-family dwelling shall remain on the same Lot and shall not be divided into separate lots.
3. No ADU unit may be separately sold as a condominium, or otherwise.
4. An ADU proposed within an existing structure is limited to $\frac{1}{3}$ the gross floor area of that dwelling to maintain the stated limit of an ADU being no more than $\frac{1}{2}$ the size of the primary residence (or 900 square feet or 750 square feet on a lot less than 25,000 square feet), whichever is less. No dwelling unit may be less than 350 square feet and no more than one (1) ADU may be created within an existing single-family home.
5. An ADU shall provide a minimum of one (1) off-street parking space on the Lot when located a half ($\frac{1}{2}$) mile or more from

a commuter rail station.

6. An ADU shall be no taller than two (2) stories or twenty-five (25) feet in height and may not exceed the height of the primary structure, whichever is lower
7. Any ADU subsequently created from a pre-existing "in-law" accommodation, must comply with all requirements of this ordinance for it to qualify as an ADU and benefit from allowances under the ADU provision. A pre-existing "in-law" does not constitute an ADU as defined herein unless it is compliant with this Section.
8. Any new separate outside entrance serving an attached accessory dwelling unit shall be located on the side or rear of the building. The primary entrance to a detached ADU shall be located on the front façade with any required secondary means of egress located on the side or rear.
9. A detached ADU, or addition to an existing structure for the creation of an ADU, may not exceed 900 square feet or $\frac{1}{2}$ the size of the primary structure, whichever is less, provided that the lot meets or exceeds the 25,000 square foot minimum lot size. For any lot less than 25,000 square feet, the ADU is limited to 750 square feet (900 for a lot greater than 25,000 sf) or $\frac{1}{2}$ the Gross Floor Area of the primary dwelling, whichever is less.
10. A detached ADU may not be located forward of the principal dwelling. Detached ADUs shall be limited to the forward plane of the primary structure or to the rear of the existing building line.
11. The merging of lots for zoning purposes (Merger Law) does not prohibit the use of the merged lot for an ADU.
12. Any ADU proposed via the alteration or addition to an existing structure within, such as a barn or garage, must comply with all dimensional requirements of the district. Any proposal described herein that does not currently comply with prescribed dimensional requirements, except lot size, shall be prohibited. As the use of the pre-existing structure has changed, any prior protections are abandoned.
13. Any proposed detached ADU or ADU created by an addition to the primary single-family dwelling that creates a new nonconformity shall be strictly prohibited.

14. Any Lot containing less than 5,000 square feet is ineligible for an ADU.
15. All detached ADUs must be of a permanent nature, on a permanent foundation as defined by the Massachusetts Building Code, and with permanent utility connections compliant with all building codes and DPW regulations. Temporary structures such as a trailer, RV, or other prefabricated temporary structure, shall not qualify as a legal ADU under this ordinance.
16. Once an ADU has been added to a single-family residence or lot, the accessory dwelling unit shall never be enlarged beyond the 900 (or 750 where applicable) square feet or half the size of the primary structure (whichever is less) allowed by this ordinance.
17. Any legally enacted Town-wide building moratorium will apply to all new ADU proposals.

§120.137. Building Permit Approval and Site Plan Review (As of Right) Procedure

Since ADUs are allowed as of right in any zoning district allowing a single-family dwelling As of Right or by Special Permit, site plan review and design review are required to ensure compliance with local regulations. An AS OF RIGHT site plan review and design review for an Accessory Dwelling Unit (ADU) in Weymouth involves submitting detailed plans to the Building Department and Planning Department demonstrating how the proposed ADU will fit on the property, adhering to zoning regulations regarding size, setbacks, parking, and other design considerations and requires a public hearing conducted by the Director of Planning & Community Development. A public hearing is necessary so neighbors are aware of the ADU and can provide feedback on the proposed ADU site plan/design.

The Inspector of Buildings shall be the permit-granting authority for the construction of any ADU. A Site Plan Review performed by the Director of Planning and Community Development is additionally required for all ADUs with the following expectations:

1. Within 30 days of the receipt of the properly executed application, the site plan review authority shall conduct a site plan review, for which notice shall be given to the property owner and by posting with the Town Clerk not less than

seven days prior to the meeting.

2. The Site Plan Review will be considered a public hearing and notice of the public hearing shall be sent to abutters, and abutters to abutters within three hundred (300) feet of the boundaries of the Lot.
3. A decision shall be rendered within thirty-five (45) days of the first public hearing.
4. No Building Permit shall be issued until a "by right" Site Plan Review is conducted.
5. Annual Updates
 - (a) Data Collection. To assist EOHLC in the administration of M.G.L c. 40A, s. 3, para 11, the Weymouth Building Department shall collect and maintain, at a minimum, the following data related to their permitting of ADUs, in a format specified by EOHLC:
 - (1) The number of approved ADU permit applications, separately tabulated for attached and detached ADUs;
 - (2) The number of denied ADU permit applications;
 - (3) The number of occupancy permits issued for any ADU; and (d) Other data or information as may be further provided for in EOHLC guidelines.
 - (b) Annual Report. To assist EOHLC in the administration of M.G.L c. 40A, s. 3, para 11, the Weymouth Building Department shall annually submit a report to EOHLC not later than March 31 containing the data collected under 760 CMR 71.04(1) during the prior calendar year. Said report shall be filed on a form as prescribed by EOHLC and shall contain all data as required therein.

§120.138. ADU (As of Right) Site Plan Review Design Guidelines

The site plan should include details like property boundaries, existing structures, proposed ADU location and footprint, access points, parking arrangements, (driveways and sidewalks), landscaping plans, size limitations, setbacks from property lines, design guidelines, and any necessary grading or drainage modifications. Any proposed detached Accessory Dwelling Unit requires a plot plan adhering to the Town of Weymouth Building

Permit Plot Plan requirements to be approved by the Department of Public Works.

The design review process shall be conducted administratively by the Director of Planning and Community Development. The Director shall implement design review and site plan approval concurrent with the underlying building permit application. An example of concurrent review for design review and site plan review can occur as follows:

1. ADUs should look like residential buildings and resemble the primary dwelling. Metal-sided buildings (such as buildings that were originally designed as a shop or garage) should be improved to resemble the primary dwelling. The Director of Planning and Community Development may approve alternate designs of detached ADUs. This clause is intended to allow for ADU designs that are aesthetically interesting but may not resemble the architecture of the primary dwelling. There are many off-the-shelf ADU designs that provide a high level of aesthetic interest, but may not be similar to the primary dwelling.
2. Intent and Specific Design Criteria. Accessory dwelling units are allowed in all zoning districts that allow single-family dwellings by right. Because of the increased density they represent and providing of an additional dwelling unit in a non-conventional way, it is important to have the ADU blend in with and complement the primary use on lots. It is also important to ensure that both residents of the accessory dwelling unit and main unit have adequate privacy. To do this, special design features are strongly recommended. Additionally, it is important to promote compatibility and complementary design of accessory structures with primary structures to protect the character of the neighborhood.
3. To assure that the development of all accessory dwelling units is consistent with Town Planning documents and other general design guidelines that the Town has in place, the following special design features and provisions should apply to all accessory dwelling units.
 - (a). *Subordinate to Main Use.* The accessory dwelling unit shall be clearly subordinate to the primary use as demonstrated in the building design and location. Design for this purpose should include the following considerations:

- (1) **Integration with Main Unit and Appearance.** If the unit is integrated into the main unit, the design shall present the overall appearance of the structure as an individual single-family residence. Designs that give the impression of a "duplex" are not recommended. A separate entrance to the accessory dwelling may be in view from the public right-of-way but should blend into the primary unit in a way that does not indicate its function as an entrance to a separate unit.
 - (2) ***Detached from Main Unit and Appearance.*** If the accessory dwelling is detached from the main unit, it should be located in a position on the lot that presents a less dominant focus than the primary use. The design shall present the general impression that it is clearly an accessory building to the primary use.
 - (3) ***Above the Garage and Appearance.*** If the unit is located on top of a detached garage or attached garage, the design should complement the architectural style of the main residence while maintaining the primary unit as the main emphasis and focus for the lot.
- (b) Maintain the privacy of adjacent residences by using a combination of native and drought-tolerant landscaping, screening, fencing, and window and door placement to reduce the opportunity of accessory dwelling units having direct visibility into windows, porches, and decks. Care shall be given to the location of windows so that they do not intrude onto the private space of adjacent neighbors.
 - (c) The driveway to a separate, detached accessory unit should be consolidated with the existing driveway area where possible and feasible.
 - (d) ***For those accessory units that are detached, the distance of separation between the primary residence shall be a minimum of 10 feet (building code requirements).***
 - (e) To ensure that an accessory dwelling unit fits into and

contributes to the livability of the neighborhood, the following are strongly recommended:

- (1) *Roof Design. Ensure that roof breaks and pitch closely relate to the primary residence. Window proportions shall complement the accessory unit;*
 - (2) *Materials. Use similar exterior materials (roof, siding, and trim) and a color that complements the primary residence;*
 - (3) *Height of Roof Ridge. In general, the roof ridge of the primary residence should be higher than the accessory dwelling unit. An exception is when the accessory dwelling unit is built onto the second story of an existing unit.*
- (f) A pedestrian walkway from the street to the primary entrance of an accessory dwelling unit shall be provided. Such a walkway may be shared with a driveway.
- (g) It is strongly recommended that stairways to upper-story ADUs be internal to the structure or placed on the side or rear façade. Such stairways shall be simple, bold projections of stairways to fit with the architectural massing and form of the building and the neighborhood. Thin-looking, open metal, prefabricated stairs and railings are discouraged.
- (h) To promote compatibility and consistency of design and neighborhood aesthetics, all ADUs requiring a building permit shall be required to have a design review as well as Site Plan Approval (as of right). Design reviews are to ensure ADUs are constructed of similar material and in a complementary design to primary structures on site and on immediately adjacent lots. A different design or material may be recommended if it is demonstrated that the design and material will enhance the general character and appearance of the neighborhood and promote policies of the Town's Land Use Plan. All applications for construction of ADUs shall demonstrate that the proposed structure will comply with any protective covenants or other restrictions applicable to the property.

- (i) **The ADU is located on the Lot so it does not impede vehicular access and circulation of the Lot, roadways, and sidewalks.**